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Attorneys for Defendants,
CITY OF OAKLAND, HOWARD JORDAN
and SEAN WHENT

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DERWIN LONGMIRE,	)	Case No. C 10-01465 JSW
)	
Plaintiff,	)	(42 U.S.C. §§ 1981 and 1983)
vs.)	
	)	SUPPLEMENTAL DECLARATION OF
CITY OF OAKLAND, HOWARD	)	MADELYN JORDAN-DAVIS IN
JORDAN, SEAN WHENT, and DOES 1-	)	SUPPORT OF DEFENDANTS' MOTION
50, inclusive,	)	FOR SUMMARY JUDGMENT, OR IN
	)	THE ALTERNATIVE, PARTIAL
Defendant.	)	SUMMARY JUDGMENT
)	
	)	Date: December 9, 2011
	)	Time: 9:00 a.m.
	)	Dept: Courtroom 11, 19th Floor
	)	Judge: Hon. Jeffrey S. White
)	
	)	Date Action Filed: April 7, 2010
	)	Trial Date: February 27, 2012

1 I, Madelyn Jordan-Davis, declare as follows:


2 1. I am an attorney with Foster Employment Law, counsel for Defendants City of
3 Oakland, Howard Jordan, and Sean Whent (collectively, "Defendants") in this action. I submit this
4 declaration in support of Defendants' Reply Memorandum in Support of Motion for Summary
5 Judgment, or in the Alternative, Partial Summary Judgment. If called as a witness, I could and
6 would testify competently to the matters stated herein.

7 2. On April 27, 2011, I took the deposition of Derwin Longmire. True and correct
8 copies of excerpts from Mr. Longmire's deposition are attached hereto as Exhibit O.

9 3. On July 11, 2011, I took the deposition of Michael L. Rains, Esq. True and correct
10 copies of excerpts from Mr. Rains' testimony are attached hereto as Exhibit P.

11 I declare under penalty of perjury under the laws of the State of California and the United
12 States of America that the foregoing is true and correct.

13 Executed this 11th day of October, 2011 at Oakland, California.

14 
15
16 Madelyn Jordan-Davis

FOSTERemploymentlaw
3000 Lakeshore Avenue
Oakland, California 94610

EXHIBIT O

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

--oOo--

DERWIN LONGMIRE,)	
)	
Plaintiff,)	
)	
VS.	)	No. C 10-01465 JSW
)	
CITY OF OAKLAND, HOWARD)	
JORDAN, SEAN WHENT, and)	
DOES 1-50, inclusive,)	
)	
Defendants.)	
)	
)	

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DEPOSITION OF DERWIN KEITH LONGMIRE

--oOo--

Oakland, California
Wednesday, April 27, 2011
10:05 a.m.

--oOo--

DOUCETTE & ASSOCIATES
1219 Marin Street
Vallejo, California 94590
(707) 554-9970

REPORTED BY: REBECCA K. FELKER, CSR, RPR
CSR License Number 8043

1 Q. At the time Deputy Chief Kozicki was in your
2 chain of command?

3 A. Yes, ma'am.

4 Q. And so was Captain Orozco?

5 A. Yes. 12:38:03

6 Q. Do you know how long Captain Orozco has
7 worked for the Oakland Police Department?

8 A. I would say about 23, 24 years.

9 Q. Would you consider him to be a senior officer
10 with the department? 12:38:34

11 A. At the time of this, yes.

12 Q. Do you know if Captain Orozco spoke to anyone
13 about the information contained in Exhibits 23 and
14 24?

15 A. He says that he didn't. 12:38:43

16 Q. Okay. And you had a conversation with him
17 when?

18 A. Oh, I talk with him all the time, but several
19 times over the last couple of years.

20 Q. Okay. And you said you talked to him all the 12:38:55
21 time. Is he a friend of yours?

22 A. No, ma'am.

23 Q. He's a professional colleague that you talk
24 to because of your working relationship?

25 A. Yes, ma'am. 12:39:04

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1 A. Yes.

2 Q. And when someone is walked out what does that
3 normally, in your experience, infer?

4 A. That they've been placed on administrative
5 leave, suspended, or fired.

12:41:20

6 Q. There's no other explanation, you're either
7 on administrative leave, suspended, or fired?

8 A. Yes, ma'am.

9 Q. Okay. And how long have you known of the
10 term "walked out"?

12:41:39

11 A. For all the years that I've been --

12 Q. With the department?

13 A. Yes, ma'am.

14 Q. And you said that's about 24 years now?

15 A. Six.

12:41:46

16 Q. Twenty-six years?

17 A. Yes, ma'am.

18 Q. I would like you to look at Exhibit 8. Now,
19 this is an article that's been discussed in prior
20 depositions. It's an article that was run by the
21 Oakland Tribune on or about April 15th, 2009. Are
22 you familiar with this article, sir?

12:42:00

23 A. Yes, ma'am.

24 Q. Okay. If you could just read to yourself the
25 first paragraph.

12:42:12

Page 121

1 A. M-hm.

2 Okay.

3 Q. Okay. And in this article it looks like
4 Thomas Peele is reporting that you have been placed
5 on administrative leave, correct? 12:42:35

6 A. Yes, ma'am.

7 Q. And he attributes that information to a
8 senior officer with knowledge of the situation?

9 A. Yes.

10 Q. Okay. Do you know who he's referring to at 12:42:42
11 that point?

12 A. I do not. Only suspicions, but I don't know.

13 Q. And you told me about those, that you believe
14 it's Whent, you believe it's Jordan, and/or Jordan?

15 A. Yes, ma'am. 12:42:55

16 Q. But you don't actually know who it is?

17 A. That's correct.

18 Q. Or who it was. I'm sorry.

19 A. That's correct.

20 Q. Okay. Lieutenant Mestas, do you know how 12:43:05
21 long he's been with the department?

22 A. Thirty, 31 years.

23 Q. So he too, like Captain Orozco, you would
24 consider to have been at that time a senior officer
25 in the department? 12:43:18

1 A. Yes.

2 Q. Okay. What about Deputy Chief Kozicki, same
3 question?

4 A. Absolutely.

5 Q. He would have been a senior officer in the 12:43:23
6 department?

7 A. Yes.

8 Q. I'm just going to go back to what we were
9 talking about a little bit before, but the rumors
10 that you were somehow affiliated with Your Black 12:43:35
11 Muslim Bakery.

12 A. Yes, ma'am.

13 Q. Do you know how long people have had that
14 sort of suspicion?

15 MR. SCOTT: Objection. Vague as to people. 12:43:44

16 BY MS. JORDAN-DAVIS:

17 Q. In the department, do you have any idea how
18 long rumors were circulating about that?

19 MR. SCOTT: Same objection as to people, but
20 go ahead. 12:43:56

21 THE WITNESS: I do not, no.

22 BY MS. JORDAN-DAVIS:

23 Q. Okay. At the time that you were promoted to
24 the rank of sergeant --

25 A. Yes, ma'am. 12:44:06

1 STATE OF CALIFORNIA)
2) ss:
3 COUNTY OF ALAMEDA)
4

5 I, REBECCA K. FELKER, a duly licensed
6 Certified Shorthand Reporter, State of California,
7 hereby certify that the witness in the foregoing
8 deposition, named
9 DERWIN KEITH LONGMIRE,
10 was duly sworn to testify to the truth, the whole
11 truth and nothing but the truth in the within-
12 entitled cause; that said deposition was taken at the
13 time and place therein named; that the testimony of
14 said witness was reported by me, and was thereafter
15 transcribed under my direction by computer-aided
16 transcription; that the foregoing is a full,
17 complete, and true record of said testimony.

18 I further certify that I am not related to
19 any party or counsel or attorney for any of the
20 parties to said deposition, nor in any way interested
21 in the outcome of the cause named in said caption.

22 I have hereunto set my hand this 4th day of
23 May, 2011.

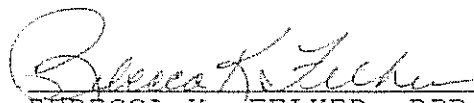
24 
25 REBECCA K. FELKER, RPR
CSR License No. 8043

EXHIBIT P

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

DERWIN LONGMIRE,)	
)	
Plaintiff,)	
)	
vs.	)	No. C 10-01465 JSW
)	
CITY OF OAKLAND, HOWARD)	
JORDAN, SEAN WHENT, and DOES)	
1-50, inclusive,)	
)	
Defendants.)	
)	

---oOo---

DEPOSITION OF
MICHAEL L. RAINS, ESQ.
Monday, July 11, 2011

REPORTED BY: JOHN P. SQUIRES, CMR, CCRR
CSR No. 2001

1 Um-hmm. I've read it.

2 Q. Have you finished reading it, sir?

3 A. Yes.

4 Q. And in that paragraph it indicates that
5 within the week before writing that letter you had
6 been provided with information that led you to
7 conclude that Lieutenant Whent should not have been
8 involved in discussions or should no longer be
9 involved in discussions regarding Sergeant Longmire;
10 correct?

11 A. Um-hmm.

12 Q. Is that a yes?

13 A. Yes. I'm sorry.

14 Q. So is it fair to say that's an accurate
15 statement, that you had just been provided
16 information regarding that issue in the week before
17 this letter, Exhibit 12, was written?


18 A. Yes.

19 Q. And the information that you were provided
20 is laid out in Exhibit 12; correct?

21 A. It is.

22 Q. Now, if you look at Exhibit 12, page 3,
23 third paragraph, and read that to yourself, let me
24 know when you're done with that.

25 A. All right.



1 Okay, I've read that.

2 Q. And I think earlier you mentioned in your
3 testimony that you made a recommendation to Whent
4 that Sergeant Longmire receive a short-term
5 suspension. And essentially what I see here in
6 Exhibit 12, page 3, paragraph 3 a confirmation that
7 that's a recommendation that you made; is that
8 correct?

9 A. I made a recommendation, yes, on the 09
10 case.

11 Q. Understood. Thank you.

12 A. Right.

13 Q. If you can just look at Exhibit 14 for a
14 second. You don't have to read every word. Just let
15 me know if it looks like a document you have received
16 before.

17 A. Okay. I've looked that over.

18 Q. Does that look to be the document that you
19 received, the discipline agreement and cover letter
20 regarding Sergeant Longmire in the 07 and 09 cases?

21 A. It appears to be, yes.

22 Q. When you received that letter, was there
23 anything, to your recollection, that you thought was
24 not typical or that stood out to you as being
25 completely different from what you recalled

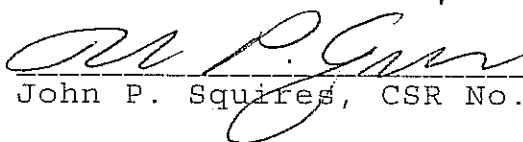
CERTIFICATE OF REPORTER

I, JOHN P. SQUIRES, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition, MICHAEL L. RAINS, ESQ., was duly sworn by me; that the testimony of said witness was taken down in shorthand by me at the time and place herein stated; that the testimony of said witness was thereafter reduced to typewriting, by computer, under my direction and supervision.

Pursuant to Federal Rule 30(e), transcript review was not requested.

I further certify that I am not of counsel or attorney for any of the parties to said cause, nor in any way interested in the outcome of this cause and I am not related to any of the parties thereto.

I declare under penalty of perjury that the foregoing is true and correct. I have hereunto set my hand on July 16, 2011.


John P. Squires, CSR No. 2001